

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ARTHUR BRENNAN MALLOY,)	
)	
Petitioner,)	
v.)	CASE NO. 2:08-cv-0934-TMH
)	
DAVID WISE, <i>et al.</i> ,)	
)	
Respondents.)	

ORDER

After an independent review of the file, it is the ORDER, JUDGMENT and DECREE of the court that:

(1) The petitioner's Objection to the Magistrate Judge Recommendation (Doc. #20) filed on February 14, 2011 is overruled;

(2) The Recommendation of the United States Magistrate Judge (Doc. #19) entered on February 4, 2011 is adopted;

(3) The 28 U.S.C. § 2254 petition for habeas corpus relief filed by Arthur Brennan Malloy on November 20, 2008 is DENIED as Malloy is not "in custody" on the 1970 armed robbery conviction challenged in the instant petition and has failed to file the petition within the applicable one-year period of limitations.

(4) This case is DISMISSED with prejudice.

DONE this the 21st day of March, 2011.

/s/ Truman M. Hobbs
SENIOR UNITED STATES DISTRICT JUDGE